XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

M.A.(C) No. 838/2007

(17)

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Misc. Appeal (C) No.838/2007

APPELLANT/ CLAIMANT Kripa Ram Gond, aged 40 years, s/o Shri Ram Singh Gond, resident of Andhiyari Path, Akaltara, P.S. Akaltara, Tehsil Janjgir, Distt. Janjgir Champa C.G.

Versus

RESPONDENTS

1. Shatrughna Gond, aged 19 years, son of Shri Rati Ram Gond, resident of Village Akaltara, near Bharat Pipar, Bajrang Mohalla, P.S. Akaltara, Distt. Janjgir Champa (C.G) ***(Driver)***

2. Deoki Nandan Jaiswal, s/o Baldeo Prasad Jaiswal, resident of village New Baradwar, Ward No.4; Distt. Janjgir Champa (C.G) ***(Owner)***

3. The Oriental Insurance Co. Ltd., through the Branch Manager, near Trimurti Talkies, Champa, District Janjgir Champa (C.G) **(Insurer)**

{Appeal under Section 173 of Motor Vehicle Act

DIVISION BENCH -:

HON'BLE SHRI L.C. BHADOO, J, &
HON'BLE SHRI SUNIL KUMAR SINHA, J.

ORAL ORDER
(25.07.2007)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(15)

मामला क्रमांक MA(C) No. 838/07 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

L.C. Bhadoo, J:-

Shri Somnath Verma, counsel for the appellant.

Shri Sudhir Agrawal, Advocate, is directed to accept notice on behalf of respondent no.3/Insurance Company and the copy of this appeal & award is served on the counsel for respondent no.3.

Heard.

In this case, only limited point regarding the application of multiplier is in issue, therefore, being a short point involved in this case, it was decided to dispose of this appeal at the motion stage itself.

The appellant has preferred this appeal u/s 173 of the Motor Vehicles Act, 1988 being aggrieved by the award dated 14.6.2007 passed by the Second Addl. Motor Accident Claims Tribunal, Janjgir, in Claim Case No.8/2007 whereby the learned Tribunal, after assessing the dependency of the appellant to the tune of Rs.10,000/- per year and after applying the multiplier of 15, awarded the compensation of Rs.1,50,000/- as dependency, Rs.5000/- towards love and affection and Rs.2000/- for funeral

GRPRJ —

मामला क्रमांक M.A.C.C. No. 838/07 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

expenses. Thus, a total amount of Rs.1,57,000/- has been awarded by the Tribunal

Mr. Verma argues that the learned Tribunal in his impugned order has mentioned the age of the appellant as 40 years. However, the multiplier of 15 has been applied whereas, as per the Schedule II, the learned Tribunal ought to have applied the multiplier of 16. Therefore, appellant is entitled for enhancement of compensation amount.

On the other hand, learned counsel for respondent no.3 opposed the arguments of Mr.Verma and submits that the Tribunal has awarded the just and reasonable compensation after taking into consideration the totality of the facts and circumstances of the case.

Having heard counsel for the parties, we have perused the impugned award. In Para 12 of the award, the learned Tribunal arrived at the conclusion that the age of the appellant was 40 years, therefore, the multiplier of 15 is to be applied as per the second schedule, whereas, a perusal of the schedule II shows that in case of the age from 35 to 40 years, the multiplier of 16 has to

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(20)

मामला क्रमांक M.A.(C) No. 838/07 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

be applied, therefore, apparently a wrong multiplier has been applied by the Tribunal which is not sustainable.

Accordingly, the appeal succeeds. The appellant is entitled for enhancement of compensation from Rs.1,50,000/- to Rs.1,60,000/- applying the multiplier of 16. The other amounts of award i.e., Rs.5000/- towards love and affection and Rs.2000/- for funeral expenses are maintained as it is.

In the result, the appeal is allowed and the compensation amount is increased to Rs.1,67,000/- in place of Rs.1,57,000/-. The claimant shall be entitled for the interest @ 6% per annum from the date of award. The respondent no.3 is directed to pay the said amount within a period of 2 months.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge

Rao

GRPRJ — FS/246— 2/2007 — 50,000.